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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,047	10/23/2003	Ulysses Gilchrist	390-011251-US(EQV)	7264
2512	7590	01/30/2006	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			MONBLEAU, DAVIENNE N	
			ART UNIT	PAPER NUMBER
			2878	
DATE MAILED: 01/30/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/692,047

Applicant(s)

GILCHRIST ET AL.

Examiner

Davienne Monbleau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/5/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed on 12/5/05 has been entered. Claims 5 and 9 have been amended. Claims 1-10 are pending.

### ***Information Disclosure Statement***

The information disclosure statement filed 4/23/04 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

*Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyajima et al. (JP 2001-284439).*

Regarding Claim 1, *Miyajima* discloses (Figures 2, 4 and 7) a device for the detection of substrates (1) stacked with a specific spacing at an opening (10) of a wall element (front wall)

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with a closure (4 and 6) for the opening (10), it being possible for this closure (4 and 6) to be adjusted in at least two different directions (vertically and horizontally) relative to the wall element (front wall) by means of a drive mechanism (31, 33, 35) that is positioned below the opening (10) and having a transmitting and receiving device (9a, 9b) for transmitting and receiving a horizontally directed measuring beam, characterized in that the transmitting and receiving device (9a, 9b) consists of a vertical drive mechanism (31) mounted on the wall element (front wall) and a sensor head that can be adjusted between a lower and an upper position by means of the vertical drive mechanism (31, 33, 35), said sensor head being pivoted on the vertical drive mechanism (31) so that it can pivot into the opening (10).

Regarding Claim 2, *Miyajima* discloses (Figure 4) that the vertical drive mechanism (31, 33, 35) is mounted below the opening (10) and outside of the region of movement of the closure (4 and 6) on the wall element.

*Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Igarashi et al. (U.S. 2004/0099826).*

Regarding Claim 1, *Igarashi* discloses (Figures 4 and 8) a device for the detection of substrates (1) stacked with a specific spacing at an opening (10) of a wall element (front wall) with a closure (4 and 6) for the opening (10), it being possible for this closure (4 and 6) to be adjusted in at least two different directions (vertically and horizontally) relative to the wall element (front wall) by means of a drive mechanism (31, 33, 35) that is positioned below the opening (10) and having a transmitting and receiving device (13) for transmitting and receiving a horizontally directed measuring beam, characterized in that the transmitting and receiving device (13) consists of a vertical drive mechanism (31) mounted on the wall element (front wall) and a

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sensor head (13) that can be adjusted between a lower and an upper position by means of the vertical drive mechanism (31, 33, 35), said sensor head being pivoted (via pivot shaft 44) on the vertical drive mechanism (31) so that it can pivot into the opening (10).

Regarding Claim 2, *Igarashi* discloses (Figure 4) that the vertical drive mechanism (31, 33, 35) is mounted below the opening (10) and outside of the region of movement of the closure (4 and 6) on the wall element.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

*Claims 3, 4, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Igarashi.*

Regarding Claim 3, *Igarashi* teaches (Figure 4) that the vertical drive mechanism (31, 33, 35) supports the sensor head (13) on a pivoting head (44) that has a horizontally directed pivot axis and is mounted on an arm (5). *Igarashi* does not teach that said arm (5) extends vertically. It would have been obvious, however, to one of ordinary skill in the art at the time of the invention to have an arm that may be extended vertically to be able to access a larger number of vertically stacked substrates with keeping a compact system.

Regarding Claim 4, *Igarashi* teaches (Figure 4) that the pivot axis runs through a hollow shaft (paragraph [0040]) which can pivot between two terminal positions.

Regarding Claim 8, *Igarashi* teaches a wafer mapping system, which must include an analysis unit in order to “map” the wafers, but does not teach specifically that the transmitting and receiving device (13) is equipped with its own electronic control and analysis unit, which is connected to a bus system of a central logic control. It would have been obvious, however, to one of ordinary skill in the art at the time of the invention to use particular electrical control means in *Igarashi* to provide certain characteristics and accommodate other electrical connections and systems.

Regarding Claim 9, *Igarashi* teaches (Figures 3A and 3B) that the vertical drive mechanism (31, 33, 35) is constructed as a motor-spindle combination, which has an encoder (7) for identifying the vertical positions, the encoder being linked to the electronic control and analysis unit of the transmitting and receiving device (13), the measured signals obtained from the receiver (9b) thereby being assigned to the positions determined. (See also *Igarashi* paragraphs [0045] and [0054] to [0059]).

*Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Igarashi in view of Wang et al. (U.S. 6,452,201).*

Regarding Claim 10, *Igarashi* teaches a sensor head (13) with a transmitter (9a) and receiver (9b) but does not teach a reflection measuring device. *Wang* teaches (Figure 5) a sensor head that is designed as a reflection measuring device, in which the transmitter and receiver (within each sensor 86) are arranged next to each other on the sensor head. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a reflection measuring device in *Igarashi*, as taught by *Wang*, to have more than one measuring path to improve the accuracy of detection. (See *Wang* Figure 5 which illustrates at least 2 measuring paths).

*Claims 3, 4, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyajima.*

Regarding Claim 3, *Miyajima* teaches (Figure 4) that the vertical drive mechanism (31, 33, 35) supports the sensor head on a pivoting head (41) that has a horizontally directed pivot axis and is mounted on an arm (5). *Miyajima* does not teach that said arm (5) extends vertically. It would have been obvious, however, to one of ordinary skill in the art at the time of the invention to have an arm that may be extended vertically to be able to access a larger number of vertically stacked substrates with keeping a compact system.

Regarding Claim 4, *Miyajima* teaches (Figure 4) that the pivot axis runs through a hollow shaft which can pivot between two terminal positions.

Regarding Claim 8, *Miyajima* teaches a wafer mapping system, which must include an analysis unit in order to “map” the wafers, but does not teach specifically that the transmitting

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and receiving device (9a, 9b) is equipped with its own electronic control and analysis unit, which is connected to a bus system of a central logic control. It would have been obvious, however, to one of ordinary skill in the art at the time of the invention to use particular electrical control means in *Miyajima* to provide certain characteristics and accommodate other electrical connections and systems.

Regarding Claim 9, *Miyajima* teaches (Figures 3A and 3B) that the vertical drive mechanism (31, 33, 35) is constructed as a motor-spindle combination, which has an encoder (7) for identifying the vertical positions, the encoder being linked to the electronic control and analysis unit of the transmitting and receiving device (13), the measured signals obtained from the receiver (9b) thereby being assigned to the positions determined.

*Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyajima in view of Wang et al. (U.S. 6,452,201).*

Regarding Claim 10, *Miyajima* teaches a sensor head with a transmitter (9a) and receiver (9b) but does not teach a reflection measuring device. *Wang* teaches (Figure 5) a sensor head that is designed as a reflection measuring device, in which the transmitter and receiver (within each sensor 86) are arranged next to each other on the sensor head. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a reflection measuring device in *Miyajima*, as taught by *Wang*, to have more than one measuring path to improve the accuracy of detection. (See *Wang* Figure 5, which illustrates at least 2 measuring paths).



***Allowable Subject Matter***

Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the cited prior art of record does not teach or fairly suggest a device for the detection of substrates comprising, along with the other claimed features, a sensor head designed as a forked light barrier, in which, at one end of the fork, a transmitter is mounted for emitting a measuring beam directed along a measuring beam path towards the other end of the fork and, at the other end of the fork, there is provided a beam deflection device, from which a coupled optical fiber leads outside of the measuring beam pathway by means of optics to a receiver at the first end of the fork (25) in a light-tight manner.

***Response to Arguments***

Applicant's arguments filed 12/5/05 have been fully considered but they are not persuasive. Applicant argues (response, page 5) that *Igarashi* is not valid prior art against the instant application. Applicant cannot, however, rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davienne Monbleau whose telephone number is 571-272-1945. The examiner can normally be reached on Monday through Friday 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Danielle Monbleau*

DNM

*Stephane B. Allen*  
Stephane B. Allen  
Primary Examiner